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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

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14 **JOHN STOSSEL**, an individual,

15 Plaintiff v.

16 **META PLATFORMS, INC.**, a Delaware
17 corporation; **SCIENCE FEEDBACK**, a
18 French non-profit organization; and
19 **CLIMATE FEEDBACK**, a French non-profit
organization,

20 Defendants.
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Case Number: 5:21-cv-07385-VKD

**PLAINTIFF'S STATUS REPORT RE:
SERVICE**

Pursuant to this Court's order directing Plaintiff John Stossel ("Mr. Stossel or "Plaintiff") to file a report regarding the status of service upon Defendants Climate Feedback and Science Feedback, (*see* Dkt. #29), Mr. Stossel submits the following report:

Federal Rule of Civil Procedure 4(h)(1)(B) provides that "a domestic or foreign corporation, or a partnership or other unincorporated association that is subject to suit under a common name, must be served: (1) in a judicial district of the United States: (B) by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process." Rule 4 is liberally construed to achieve its underlying purpose of giving a party notice of a claim against it. *Direct Mail Specialists, Inc. v. Eclat Computerized Tech., Inc.*, 840 F.2d 685, 688 (9th Cir. 1988). "Despite the language of the Rule, service of process is not limited solely to officially designated officers, managing agents, or agents appointed by law for the receipt of process. The rules are to be applied in a manner that will best effectuate their purpose of giving the defendant adequate notice." *Id.* Thus, the service can be made "upon a representative so integrated with the organization that he will know what to do with the papers. Generally, service is sufficient when made upon an individual who stands in such a position as to render it fair, reasonable and just to imply the authority on his part to receive service." *Id.* (citations omitted). "Generally, the determination of whether a given individual is a 'managing or general agent' depends on a factual analysis of that person's authority within the organization." *Id.* (service of process on receptionist in shared office of defendant corporation and another corporation was sufficient to complete service on corporate defendant).

Based on reference to publicly available sources, Plaintiff is informed and believes that Climate Feedback is a subsidiary to and a trade name or d/b/a for Science Feedback, rather than a separate legal entity. Science Feedback is listed on France's Trade and Companies Register, but a registry search for Climate Feedback yields no results. Declaration of Krista L. Baughman ("Baughman Decl."), ¶2, Exh. A. According to Wikipedia, "Science Feedback is a site founded in September 2018 as a French Association déclarée by Emmanuel Vincent to parent several subsidiary FCWs, amongst which are Climate Feedback (CF) and Health Feedback (HF)." Baughman Decl., ¶3. The websites for Science Feedback and Climate Feedback cross-reference one another and include

1 identical language in places. Baughman Decl., ¶¶ 4-5, Exhs. B-C (the website homepage for both
 2 Science Feedback and Climate Feedback list, under “What We Do,” an identical description of the
 3 organizations as “a worldwide network of scientists sorting fact from fiction in science based media
 4 coverage. Our goal is to help readers know which news to trust.”) As such, it reasonably appears that
 5 Climate Feedback is a d/b/a or trade name of parent company Science Feedback, without a separate
 6 legal status or business address apart from Science Feedback. (Climate Feedback and Science
 7 Feedback are collectively referred to herein as the “Feedback Defendants”).

8 According to Science Feedback’s public representations, Ms. Nicole (“Nikki”) Forrester is one
 9 of only 14 individuals listed as Science Feedback’s “Team.” Baughman Decl., ¶6, Exh. D. She is the
 10 only “Climate and Ecology” editor, and one of only two Science Editors for Climate, meaning she is
 11 held out by Science Feedback as a lead of the climate division of the company. *Id.* Ms. Forrester was
 12 and is the sole Editor listed by Climate Feedback on its fact-check about Mr. Stossel’s reporting.
 13 Baughman Decl., ¶7, Exh. E. Science Feedback’s “Team” page includes a “How we work” section,
 14 which explains that Science Editors like Ms. Forrester are the heart of the website’s functioning, and
 15 that they work in direct collaboration with the Founder/Director (Emmanuel Vincent) to review and
 16 create content:

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 18 “Science editors identify trending news and claims according to their influence on social
 19 media and the quantity or degree of scientific evidence within the reporting. Once an article or
 20 claim is selected for review, one editor leads the fact-checking effort by contacting relevant
 21 experts, reading and summarizing the scientific literature on the topic, and writing a draft of
 22 the review. At least one other editor reviews the draft, challenges the claims, and pinpoints
 23 where additional clarity and references are needed. Challenging questions are decided by the
 24 director.”

25 Baughman Decl., ¶6, Exh. D.

26 As such, Ms. Forrester’s title, position, and apparent operation within Science Feedback
 27 confirms that she is “a representative so integrated with the organization that [s]he will know what to
 28 do with the papers” – indeed, part of her job entails working directly with the Founder/Director of
 Science Feedback. Accordingly, Ms. Forrester “stands in such a position as to render it fair,

1 reasonable and just to imply the authority on [her] part to receive service.” *Direct Mail Specialists*,
 2 *supra*, at 688.¹

3 On October 12, 2021, Plaintiff effected personal service on Ms. Forrester in West Virginia. *See*
 4 Baughman Decl., ¶10; Dkt. #23. As such, and because Ms. Forrester is an officer or managing or
 5 general agent of the Science Feedback, personal service on her satisfied the requirements of
 6 4(h)(1)(B) for the purpose of serving that defendant. And because Climate Feedback appears to have
 7 no separate legal entity status from Science Feedback, service is effected as to both Defendants.

8 For the foregoing reasons, Plaintiff respectfully submits that the Feedback Defendants have
 9 been properly served in the case.²

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 11 Date: December 7, 2021

DHILLON LAW GROUP INC.

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 13 By: /s/ Krista L. Baughman
 14 Krista L. Baughman
 15 Attorney for Plaintiff John Stossel
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24 ¹ Further, it bears noting that Meta currently works with the Feedback Defendants for the fact-
 25 checking services that are at issue in this lawsuit (*see* Baughman Decl., ¶8, Exh. F), and it defies belief
 26 that the Feedback Defendants would not have been notified of this lawsuit through Meta or its
 counsel.

27 ² Should the Court find that service on either or both Feedback Defendants has not been effective to
 28 date, Mr. Stossel reserves the right to seek alternative service as permitted by Fed.R.Civ.Proc. 4(f), to
 avoid the requirements of service by Hague Convention, which will take several months to complete,
 at exorbitant cost, and will significantly delay the case. Baughman Decl., ¶9.